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15 Robert Nurisso and Joseph Guglielmo

16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**

18 **OAKLAND DIVISION**

19 UNITED STATES FIDELITY AND GUARANTY) CASE NO. C 03 5376-SBA
20 COMPANY, et al.,)
21 Plaintiffs,) STIPULATION RE: HEARING
22 v.) SCHEDULE; ORDER THEREON
23 THE SCOTT COMPANIES, INC., et al.,)
24 Defendants) [Before Magistrate Judge Chen per
25) Terms of Settlement Agreement]
26)

27 Plaintiffs United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance
28 Company, St. Paul Fire and Marine Insurance Company and St. Paul Medical Liability Insurance
Company (collectively, referred to herein as "St. Paul") and Defendants Robert T. Nurisso (referred to
herein as "Nurisso") and Joseph A. Guglielmo (referred to herein as "Guglielmo"), by and through their
respective counsel of record herein, hereby stipulate and agree as follows:

29 **WHEREAS,**

30 A. On September 12, 2006, St. Paul filed a Motion for the Issuance of Temporary Restraining
31 Order in connection with St. Paul's Motion for Judgment against Nurisso and Guglielmo.

32 B. On September 21, 2006, the parties executed a Stipulation Re: Issuance of Temporary

1 Restraining Order and on September 22, 2006, the Court entered an order issuing a Temporary
2 Restraining Order pending the outcome of a hearing on St. Paul's Motion for Preliminary Injunction and
3 Motion for Judgment ("Motions").

4 C. St. Paul's Motions were set for hearing on December 6, 2006.

5 D. On or about November 29, 2006, the Court determined that it had a conflict of interest with
6 one of Defendants' retained consultants and the Court promptly advised the parties of said conflict.

7 E. On November 29, 2006, the Court issued an Order of Recusal and a Notice vacating the
8 hearing that was set for December 6, 2006.

9 F. Thereafter, Defendants proposed to St. Paul that they would withdraw the Declaration of
10 their retained consultant that the Court had a conflict with and replace him with another different retained
11 consultant if the Court would withdraw its Order of Recusal. St. Paul agreed with Defendants' proposal
12 and on December 1, 2006, the parties jointly filed a letter with the Court outlining Defendants' proposal.

13 G. On December 4, 2006, the Court withdrew its Order of Recusal.

14 H. Defendants have retained a replacement consultant, Terry Lloyd, with whom the Court has
15 advised the parties that the Court does not have a conflict. Mr. Lloyd is presently performing his analysis
16 and preparing his report. Defendants anticipate that Mr. Lloyd will have his report completed by January
17 31, 2007.

18 I. The parties now desire to obtain a new hearing date and a new briefing schedule.

19 J. The Court has asked the parties to comment on whether an evidentiary hearing is desired.
20 The Final Settlement Agreement between the parties specified that any disputes would be decided without
21 live testimony. The parties are in agreement that the Final Settlement Agreement should be complied
22 with in this regard and that there should be no live testimony.

23 **WHEREFORE**, St. Paul, Nurisso and Guglielmo hereby stipulate and agree that:

24 The hearing on St. Paul's Motions shall be set for March 20, 2007, or as soon thereafter as the
25 Court's calendar permits. Nurisso's and Guglielmo's written oppositions to the Motions shall be filed and
26 served on counsel for St. Paul four (4) weeks before the date of the hearing. St. Paul's reply/replies to
27 Nurisso's and Guglielmo's oppositions shall be filed and served on counsel for Nurisso and Guglielmo
28 three (3) weeks before the date of the hearing.

1 **IT IS SO STIPULATED.**

2 Dated: January 18, 2007

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11 Dated: January 21, 2007

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19
20 **ORDER**

21 Based upon the foregoing stipulation, and good cause therefore, the Court orders as follows:

22 A hearing on St. Paul's Motions based upon the facts and circumstances set forth in St. Paul's
23 Motion shall be set for March 21, 2007 at 3:00 a.m./p.m. before Magistrate Judge Chen. The following
24 briefing schedule shall apply to the hearing: Robert Nurisso's and Joseph Guglielmo's written
25 oppositions to the Motions shall be filed and served on counsel for St. Paul four (4) weeks before the date
26 of the hearing. St. Paul's reply/replies to Robert Nurisso's and Joseph Guglielmo's oppositions shall be
27 filed and served on counsel for Nurisso and Guglielmo three (3) weeks before the date of the hearing.

28 **IT IS SO ORDERED**

29 Dated: January 26, 2007

